Congressman Brian Baird's Response to Questions About Health Care Reform Vote

Since the vote on the House version of health care reform there have been a number of questions asked about why I voted as I did. Although I offered a brief explanation prior to the vote, it may be helpful to give still more information to help explain my position.

We Need Reform

There is no question in my mind that we need comprehensive health care reform. Health care is not only important to all Americans, including me and my family; it is also something that I dedicated my life to for more than two decades before entering Congress. I have treated patients who died because they lacked insurance and delayed needed care. As a provider, I have dealt with the complexities of insurance, both private and Medicare. I have paid premiums on malpractice insurance and I have taught health care policy.

Prior to this vote, I was the lead House sponsor of the Healthy Americans Act, I have worked to pass successful mental health parity legislation, and I have introduced comprehensive liability reforms. So the issue is not whether or not reform is needed. I know all too well the need for reform and I have worked on different initiatives throughout my career in Congress. I am proud of that record and intend to continue with those efforts.

R**easons for Voting "No" on H.R. 3962**

<u>Unknown Costs</u>

In making difficult decisions in Congress common sense is usually a pretty good guide. To me, common sense says that if someone wants to sell you a health insurance policy for your family or your employees, you are going to ask some key questions. What does it cover? What does it cost? And what is the quality of care?

Suppose an insurance salesman said in response to your questions, "This is too important to ask these questions now because this may be your only chance to get this policy. We've been talking about this for a long time, just buy it now and we'll discuss the price later."

Would a responsible person just acquiesce and go along without insisting on knowing the price and who would pay it?

Suppose the salesman then upped the pressure and said, "Everyone you know, all your friends, and on top of that, some very important people think you should buy this policy

and do it now. If you don't, they'll all be disappointed and angry and there will be consequences for you."

Would a responsible person then go along to avoid making some people angry or would they still insist on knowing the cost?

Suppose the salesman said finally, "Look, all this talk about price and coverage is getting us nowhere. You either make a decision now without that information or I walk away. You know this is better than what you have now. You know, it's either this or nothing. If you turn this down just so you can know what it's going to cost and who will pay for it, you're saying you want nothing and you'll never get another chance like this."

If high pressure sales tactics work, you can just say okay, vote yes, buy the policy and worry about the price or, better yet let someone else, your kids for example, worry about the price somewhere down the road.

If you believe it's your responsibility to have full information, if at least some of what the salesman is proposing you know to be questionable, and if credible estimates have suggested that in fact premiums might increase by more than a thousand dollars per year for many people, you can simply say instead, "Thank you very much, but precisely because this is so important, I need a little more information. Come back to me with that information and we can continue the conversation."

In Congress, one of the entities charged with giving us objective, independent information about the costs of legislation is the Congressional Budget Office (CBO). Just two days before the vote I was part of a group that met for an hour and a half with Doug Elmendorf, the director of CBO. Mr. Elmendorf gave us his best information and estimates about a number of aspects of the bill, but at the end of the meeting, after most of my colleagues had left, I asked the simple questions, "Do we know what this bill is going to do to the cost of premiums for people who already have insurance?"

Mr. Elmendorf replied honestly, "We have not yet completed that analysis. We hope to have it finished in a few weeks."

Just one day earlier, I had met with the President's chief health care advisor, Nancy-Ann DeParle. We discussed a number of potential benefits of the legislation, and there are many, but she too could not provide a specific answer to my question about how premiums would be affected.

At the same time, the chief actuary of the Center for Medicare and Medicaid Services (CMS) announced three days before the vote that he too did not have sufficient time to complete his report on how the bill would affect Medicare, Medicaid and overall health spending.

So the situation at the time of the vote was that two of the most important and objective bodies that consider the costs of the legislation had not yet completed their analysis and

could not give confident estimates of how much average Americans who already have insurance would have to pay with or without the legislation and they could not yet tell us how Medicare, Medicaid or overall health spending would be impacted.

Was there a compelling reason to bring the bill to the floor without such information?

Let's go back to the salesman analogy. If a salesman pressured you to buy a policy without knowing costs, what would you conclude were the reasons for that strategy?

The fact is, from a policy perspective there was no real urgency that demanded the vote be taken without the requested information. Indeed, two weeks have passed and the Senate has still not voted on its version so the House could have waited until CMS and CBO had given their estimates and we could have waited for the Senate to act. All the discussion about "Now or never," and "Our only chance," may or may not be true about final passage, but it was simply contrived about whether we had to act on that particular day without having important information on which to make informed judgments.

One final note on this subject. The report by CMS is now available. Reasonable people may debate its conclusions but, having read it carefully, I believe the analysis is sound and certainly something that should have been available for consideration before, not after, the vote. A link to that report, for those who care to take the time to read it, is provided on my website.

Complexity

As is well known, H.R. 3962 is more than two thousand pages long. That comes on top of all the other lengthy legislation that already governs Medicare, Medicaid, Flexible Savings Accounts, Disproportionate Share Hospitals, and all the other federal and state health care programs. What is more, the bill also modifies the income tax code, thereby adding to the more than twenty thousand pages already contained in that code.

A few days before the vote, I attended a two and a half hour long briefing of the Democratic Caucus provided by more than thirty top staff plus key members who had worked on the legislation. I had previously led efforts in our caucus to request that just such briefings be offered so members could understand the bill and I want to commend the Democratic leadership for making such meetings possible.

The staff members at this briefing, many of whom have advanced degrees and years of policy experience, each took turns describing the portions of the bill for which they had expertise. Overall it was one of the more informative briefings I have attended and it went a long way toward helping people understand the legislation. That is the good news.

The trouble, however, is that it took so many people with so much expertise so much time to go over the bill for people who have at least in theory already been studying it themselves. The average citizen doesn't have the time, the expertise or the access to

technical experts to make sense of all this, yet it is their lives, businesses and families that will be affected.

I would have favored, and I have proposed, a much simpler and more straight-forward approach to reform that could easily be encompassed in a couple hundred pages of legislation and easily understood by everyone. Unfortunately, we were not given that opportunity. Instead, if the measure that passed eventually becomes law, we will effectively lock in extraordinary complexity, bureaucracy and costs rather than implementing truly bold reform that simplifies and streamlines an already too complex and costly patchwork of programs.

Debt and Deficit Spending

This legislation comes at a time of near record unemployment, $1.4 trillion deficits, $11.5 trillion existing debt, two costly wars and a present value of long term debt that already exceeds $52 trillion, which is more than the combined wealth of all the American people. This is the legacy we are already passing on to our children.

It is true, and admirable, that the Democrats have tried to pay for most of the cost of this bill, but creating a new program that must be paid for by increased taxes or other means takes away funds that might otherwise be used to lower the deficit and debt.

Those facts alone do not necessarily argue conclusively against reform. Indeed, I believe they underscore why reform is so essential, especially in the entitlement arena. One thing however is certain, and that is, we must carefully consider costs and deficits in our analysis of any reform proposals.

In the current legislation, substantial savings are promised for Medicare. These theoretical savings are predicated to a large degree on the assumption that Congress will stick to a proposed formula that constrains payment increases for health care providers.

In theory, that might show potential savings on paper, but the reality is that Congress, and for that matter the American people, have shown themselves unwilling to actually implement those changes when they have been called for in prior legislation. The recent CMS report makes essentially this same observation as has CBO in the past.

We don't have to look far for an example of this. One of the "deals" that allowed the legislation to move forward when it did was the removal of a measure that would prevent a reduction of Medicare compensation rates to providers. The reduction was required by prior legislation that had been intended to control the growth of Medicare spending. For years now every time the proposed limits on Medicare compensation growth have come due, Congress has been swarmed by physicians, seniors and others demanding that the cuts not be implemented. Responding to this pressure, Congress has repeatedly taken the easy political road and postponed the cuts without raising revenues, thereby allowing spending, and debt, to increase.

The most telling thing about the credibility of the proposed spending reductions in H.R. 3962 is that within the first week after its passage, the House passed a measure to yet again forego the proposed spending cuts, thereby adding $210 billion in additional Medicare spending and debt over the next ten years. This was not a surprise, however, because many observers believe a commitment had been made to do exactly this in order to secure the support of the AARP and leading physician groups.

My question from this is simple: How confident can we be that the promised savings in Medicare will actually come about if we have repeatedly blocked such savings when they were required by prior legislation and when we found a way to avoid them through the very legislation before us now? The obvious answer is that prior behavior is the best predictor of future behavior. We can, if anything, be more confident that the promised savings will not be realized.

The Rule for Debate

Before any major legislation is debated in the House, a rule governing the terms of debate is brought to a vote. In the case of HR 3962, that rule allowed one amendment dealing with limiting abortions and one amendment by the Republican side that would have substituted their bill for the Democratic proposal. No other changes were allowed to be proposed or debated by anyone else, Democrat or Republican.

I believe, and I told the Democratic leadership, that was a mistake. Debate and discussion are essential to the democratic process and are especially important for matters like this. Reasonable people can and should disagree with one another and they should have an opportunity to not only express that disagreement but propose and vote on alternatives.

Too often, when the Republicans controlled the majority they prohibited amendments, did not allow time for real consideration, and, in the case of Medicare Prescription Drug legislation, literally locked the—then minority—Democrats out of the room.

Such conduct was and is an affront to the institution and the people we serve. Legislation affects all Americans, not just those represented by members of whichever party is in the majority at the time. Therefore, it is only fair and right that different voices have an opportunity to be heard and to propose reasonable changes. I am not proposing that unlimited amendments be ruled in order, but a reasonable number by members from both sides of the aisle would certainly have been justified. It was wrong when the Republicans did not allow for this and it is no less wrong when the Democrats do so as they did on this legislation.

For this reason, and because I believed we needed time to have the information from CMS and CBO as discussed earlier, I voted “No” on the Rule.

As with my vote on the final bill, this vote on the Rule has also been criticized. Ironically, some of the criticism refers to "lock step Republicans" even as I am criticized for asking that there be real opportunity for debate and for thinking independently myself. Apparently, "lockstep" is pejorative when applied to the opposition and virtuous when applied to one's own side. In other words, the Democrats should demonstrate that they are no better than the Republicans when it comes to fair play and should oppose a truly democratic process on what everyone considers one of the most important votes of our time.

This is a disservice to the people who sent us here and to the high aspirations of the institution itself. I believe that the average citizen is sick and tired of this kind of partisanship on either side.

My Proposal

Some who have criticized my vote have suggested that if I did not approve of this bill I should have offered an alternative. In fact, I did precisely that several weeks before the vote. I will not reiterate that proposal here as it is available on my web site. Here I will just say that my proposal is simple, affordable, fully paid for and would provide health care, including medical, mental, dental, vision and long term care for all Americans.

Why Not Just Vote to Move the Process Forward?

Regardless of the concerns I have expressed above, some have asserted that I should have just voted "Yes" in order to move the process forward and "send a message" to the Senate. If passage of the bill as it stood does send a message to the Senate, that message is that the House is willing to pass major legislation without full information about the costs or impacts. Further, although there is much to commend about this bill, there are also key elements of this legislation that I do not believe should become law. Allowing more time to receive the CMS and CBO estimates would have addressed the first concern, allowing votes on amendments might have addressed the second, but neither was permitted by House leadership.

I believe it is important to be absolutely clear about the fact that we should not, and I will not, vote on a final bill of this importance without full opportunity to study and analyze its impacts. This is not about the tired and overused cliché of "not letting the perfect be the enemy of the good." I am not asking for perfection here. I am, however, insisting on a responsible process that gives a chance for elected representatives and the people themselves to know whether we have a "good" to begin with, what that supposed good will cost and how we are going to pay for it.

Motivation

Some have suggested this vote was politically calculated. Let me be clear and let me reiterate - health care reform affects the lives of three hundred million people and will cost more than $1.2 trillion. What is more, the delivery of health care is my chosen profession and something to which I have given much of my life before and during my term in Congress. These facts vastly outweigh any political considerations for me, as they should for others on either side.

I cast this vote knowing full well that whatever position I took, pro or con, some would approve and others would be unhappy. That's the nature of the job and this issue and I accept that. But my first responsibility has always been to do what is in the best interest of the nation, regardless of the political consequences. The more important the issue, the more important this principle is to me.

In my judgment, anyone, on any side of this issue, who considers partisan or personal political concerns to outweigh the importance of getting this right does not deserve to serve in office. If others disagree and believe one should put party loyalty, interest group pressure or personal politics over principle and sound policy, and if some believe we should make decisions of this importance without full information or deliberation, they are free to believe that. I would ask, however, that they refrain from questioning my motivation or integrity in the process.

Reasonable people of good intent can and do disagree on this legislation and many other matters and I am always willing to hear other positions and explain my own. As I have said before, my vote on the final legislation that will emerge from a conference committee is not yet determined and will only be determined by the merits of whatever emerges and on full information and careful analysis of that product.

Conclusion

I recognize that this reply has been lengthy but on a bill of this scope and an issue I have been involved in for more than three decades now, I could have gone on longer. Nevertheless, I hope the length and the content of this convey the seriousness with which I take both the issue itself and the concerns of those who have taken the time to inquire about my vote.

For those truly interested in fully understanding the legislation itself and my vote, I would encourage reading not only this letter, but the following:

The two thousand pages of the legislation and manager's amendment
http://docs.house.gov/rules/health/111_ahcaa.pdf

Analyses by CBO produced before the bill
http://www.cbo.gov/publications/bysubject.cfm?cat=9

The subsequent analysis by CMS
http://thehill.com/images/stories/news/2009/november/weekend111309/cmsactuarynumbers.pdf

My own proposal and frequently asked questions about that proposal
http://www.baird.house.gov/index.php?option=com_content&task=view&id=1046&Itemid=99

I would also recommend consideration of various reports by non-profit insurance companies estimating the impacts on premiums if the legislation passed by the House becomes law.

Finally, for broader but essential budgetary context, it is informative to read the Former US Comptroller General's analysis of the nation's long term debt. I think people may find this a sobering analysis.
http://budget.house.gov/hearings/2008/06.24walker.pdf